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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,569	09/09/2003	George Emanuel	KSY 02655 PTUS	3413
32233 7590 03/28/2011				
STORM LLP BANK OF AMERICA PLAZA 901 MAIN STREET, SUITE 7100 DALLAS, TX 75202			EXAMINER KIM, CHRISTOPHER S	
			ART UNIT 3752	PAPER NUMBER
			NOTIFICATION DATE 03/28/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/658,569

Applicant(s)

EMANUEL, GEORGE

Examiner

Christopher S. Kim

Art Unit

3752

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-65 and 68-79 is/are pending in the application.
- 4a) Of the above claim(s) 68 and 77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59-65, 69-76, 78 and 79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 8, 2010 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

3. Applicant elected Invention I, Species A (figures 1-3) in the reply filed on November 4, 2005. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
4. Claims 68 and 77 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 4, 2005.

Claim Rejections - 35 USC § 112

5. Claims 59-65, 69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 59 recites the limitation "each orifice directed away from the throat of the nozzle toward the exit nozzle portion" in lines 14-15. It is uncertain it uncertain how the orifices are directed toward the exit nozzle portion when the orifices along the curved strut is located in the exit nozzle portion. Subparagraph (c) defines the exit nozzle portion as being between the throat and the nozzle exit end. Lines 12-13 define the strut being located downstream of the throat and upstream of the exit plane (the exit plane is undefined relative to the exit nozzle portion). It would appear that two configurations are possible: (1) the strut being located in the exit nozzle portion; and (2) the strut being located downstream of the exit nozzle portion. The specification appears to enable the configuration where the strut is located within the exit nozzle portion. If the strut is located within the exit nozzle portion, it is uncertain how the orifice is directed towards the exit nozzle portion. The following would be appropriate: further define (1) the exit plane to be at the nozzle exit end; and (2) each orifice to be directed towards the exit plane.

Claim Rejections - 35 USC § 102

6. Claims 70-73, 79 are rejected under 35 U.S.C. 102(b) as being anticipated by Dobrzelecki et al. (3,842,363).

Dobrzelecki discloses a system comprising:

a nozzle comprising:

a nozzle body having a throat 20;

an inlet portion (inlet to nozzle 20);

an outlet portion (downstream of nozzle 30);

at least one curved injection strut 41, 42, 43;

a plurality of orifices 43A-I.

Claim Rejections - 35 USC § 103

7. Claims 74-76 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dobrzelecki et al. (3,842,363).

Dobrzelecki discloses the limitations of the claimed invention with the exception of the particular working fluid. Iodine, helium, nitrogen and oxygen are well known working fluids. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have used Iodine, helium, nitrogen or oxygen in the device of Dobrzelecki dependent on application.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cavalleri discloses a curved injection strut.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571)

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272-4905. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Christopher S. Kim/
Primary Examiner, Art Unit 3752

CK